

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Jonathan Allen Nix, ) Case No. 6:18-cv-2089-DCC-KFM  
 )  
 Plaintiff, )  
 )  
 v. ) **ORDER**  
 )  
 Marvin Nix, Kristy Leopard, Charles )  
 Way, Dolly Curver, )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On September 19, 2018, the Magistrate Judge issued a Report recommending that this action be dismissed with prejudice as to Defendants Curver and Way and that all claims against Defendants Nix and Leopard be dismissed with the exception of Plaintiff's claim for deliberate indifference to serious medical needs. ECF No. 19. The Magistrate Judge advised Plaintiff of the procedures and

requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.<sup>1</sup>

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

The Court notes that the Magistrate Judge provided Plaintiff an opportunity to attempt to cure the defects in his Complaint, and Plaintiff declined to do so. After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. Defendants Charles Way and Dolly Curver are dismissed from this action with prejudice and all

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<sup>1</sup> The Court notes that the Clerk’s Office has received an upcoming change of address. See ECF No. 27. However, significantly, none of Plaintiff’s mail has been returned. Accordingly, it appears that Plaintiff is receiving mail from the Court.

claims against the remaining Defendants are dismissed with prejudice except for Plaintiff's claim for deliberate indifference to serious medical needs. See *Workman v. Morrison Healthcare*, No. 17-7621, 2018 WL 2472069, at \*1 (4th Cir. June 4, 2018) (stating that district court should, "in its discretion, either afford [the plaintiff] another opportunity to file an amended complaint or dismiss the complaint with prejudice, thereby rendering the dismissal order a final, appealable order") (citing *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 630 (4th Cir. 2015)).

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

October 17, 2018  
Spartanburg, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.